

**BOARD OF SUPERVISORS  
WAYNE COUNTY**

**RESOLUTION NO. 353-01: ADOPTION OF LOCAL LAW AMENDING LOCAL LAW NO. 3-2000,  
ENTITLED "A LOCAL LAW PROVIDING FOR CHANGES IN THE WAYNE COUNTY SANITARY CODE  
IN RELATION TO CLEAN INDOOR AIR"**

Mr. Guelli presented the following:

WHEREAS, a proposed local law in relation to amending local law no. 3-2000, entitled "A local law providing for changes in the Wayne County sanitary code in relation to clean indoor air" was presented to the Board of Supervisors on; and

WHEREAS, a public hearing on the proposed local law was held by the Board of Supervisors on May 15, 2001 in accordance with the notice of hearing duly posted and published in the manner prescribed by law; now, therefore, be it RESOLVED, that said local law is hereby adopted to read as follows:

**COUNTY OF WAYNE - STATE OF NEW YORK  
LOCAL LAW NO. 2-2001**

A local law amending Local Law No. 3-2000, entitled "A Local Law providing for changes in the Wayne County Sanitary Code in relation to clean indoor air".

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE, as follows:

**SECTION 1.**

Subdivision (11) of Section 2 of Local Law No. 3-2000 entitled "A Local Law providing for changes in the Wayne County Sanitary Code in relation to clean indoor air" is hereby amended to read as follows:

- (11) "**Bar Area**" shall mean a contiguous area of a restaurant or Bowling Center, containing a counter, which is primarily devoted to the selling and serving of alcoholic beverages. This area may include seating that is immediately contiguous to the bar if the bar area is separated from the remaining seating area by: (a.) full floor to ceiling partition, or (b.) partial partition with separately operating and properly maintained ventilation [as defined in *Section 2, Paragraph 14(c)*] to the outside, or (c.) is on a separate floor, for example, as in a two-story dwelling with properly maintained ventilation as defined in Section 2, Paragraph 14(c.).

**SECTION 2.**

Subdivision (14)(c) of Section 2 of such local law is hereby amended to read as follows:

- (c.) Have a ventilation system whereby the air from the enclosed room is immediately exhausted to the outside of the building in such a way as to prevent the re-introduction of smoke into the building and must prevent back streaming of smoke into smoke free areas. Such room may contain one or more doors, provided that the doors remain closed except for the purpose of entry and exit. These doors must be equipped with self-closing devices. Such room may not be the sole entry area to or exit area from the facility, nor be the sole waiting area for the facility.

**SECTION 3.**

Subdivision (14)(d) of Section 2 of such local law is hereby amended to read as follows:

- (d.) In Restaurants with Bars and restaurants without Bars, the "Separate Smoking Room" and, "Bar Area" may be utilized for full service dining, but may not comprise more than thirty percent (30%) of the total seating open to the public, or employees in a place of employment.

**SECTION 4.**

Subdivision (16) of Section 2 of such local law is hereby amended to read as follows:

- (16) "**Smoking**" shall mean inhaling of, exhaling of, burning of, or carrying of any lighted cigar, pipe, cigarette, weed, or other plant in any manner or in any form.

**SECTION 5.**

Subdivision (18) of Section 2 of such local law is hereby amended to read as follows:

- (18) "**Spectator Facilities**" shall mean any indoor facility where members of the general public assemble to view and/or participate in scheduled events involving competitions, exhibitions, entertainment productions, trade shows, conventions, or other events established for common purposes.

**SECTION 6.**

Subdivision A (7)(b) of Section 4 of such local law is hereby amended to read as follows:

- (b) Restaurants with a bar shall designate as a nonsmoking area its entire Restaurant Dining Area, but may except a “Bar Area” and a “Separate Smoking Room” as defined.

SECTION 7.

Subdivision A (10) of Section 4 of such local law is hereby amended to read as follows:

- (10) Sports arenas.  
Smoking shall be prohibited in outdoor seating or viewing areas where seating or standing room is assigned by the issuance of tickets.

SECTION 8.

Subdivision A (11) of Section 4 of such local law is hereby amended to read as follows:

- (11) Bowling Centers.  
Smoking shall be prohibited in Bowling Centers, except smoking may continue to be allowed in the “Bar Area.”

SECTION 9.

Subdivision A (12) of Section 4 of such local law is hereby amended to read as follows:

- (12) Bingo Halls.  
Smoking may be allowed in Bingo Halls in “Separate Smoking Rooms”, as defined in Section 2, Paragraph 14, provided that the room does not exceed 50% of the total seating of the facility.

SECTION 10.

Subdivision A (13) of Section 4 of such local law is hereby amended to read as follows:

- (13) Every room, chamber, place of meeting or public assembly, including school buildings, under the control of any board, council, commission, committee, including joint committees, or agencies of the County or any political subdivision of the County.

SECTION 11.

Subdivision A (17) of Section 4 of such local law is added to read as follows:

- (17) Spectator facilities and convention halls.

SECTION 12.

Subdivision B of Section 5 of such local law is hereby amended to read as follows:

- B. Each employer having any enclosed place of employment located within the County of Wayne shall adopt, implement, make known, and maintain a written smoking policy, which shall contain the following requirements. Smoking shall be prohibited in all enclosed facilities within a place of employment except as hereinafter provided in Section 5, Paragraph E. This includes common work areas, auditoriums, building entryways, classrooms, conference and meeting rooms, loading docks, garages, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairways, restrooms, fleet vehicles, and all other enclosed facilities.

SECTION 13.

Subdivision D of Section 5 of such local law is hereby amended to read as follows:

- D. All employers shall supply a written copy of the smoking policy to any existing or prospective employee.

SECTION 14.

Subdivision A (1) of Section 7 of such local law is hereby amended to read as follows:

- (1) Bars or Taverns as defined in Section 2, Paragraph 1 of this Local Law.**

SECTION 15.

Subdivision B of Section 8 of such local law is hereby amended to read as follows:

- B. Enforce this Local Law by requesting compliance from patrons.**

SECTION 16.

Subdivision C of Section 8 of such local law is hereby amended to read as follows:

- C. Develop and implement a plan of compliance after a complaint is received by Wayne County Public Health Service, that is acceptable to the Wayne County Public Health Service and which specifies areas where smoking is prohibited, and where smoking is permitted, if any. The plan must include the manner in which this information is conveyed to the public and all employees. The plan shall be available for inspection by the Director of Public Health or the Director's designees upon request.**

SECTION 17.

Section 9 of such local law is hereby deleted in its entirety.

SECTION 18.

Section 11 of such local law is hereby amended to read as follows:

**SECTION 11. Enforcement**

Police officers, peace officers or other such persons as may be designated by the Board of Supervisors are hereby authorized to issue and serve appearance tickets for violations of this local law.

**SECTION 19.**

Section 12 of such local law is hereby amended to read as follows:

**SECTION 12. Penalties**

A. Civil Penalties

The County may commence a civil action to enjoin or otherwise remedy any failure to comply with this law or the rules, regulations and orders promulgated pursuant to this law.

B. Criminal Penalties

1. Failure to comply with this Local Law shall be a violation as defined in Section 55 of the Penal Law. Any person convicted of a violation of this Local Law shall be liable for:

- (a) A fine of \$25.00 for the first conviction;
- (b) A fine of \$50.00 for the second conviction within one year of the first conviction;
- (c) A fine of \$100.00 for the third conviction within one year of the first conviction;
- (d) Fine of \$250.00 for the fourth conviction within one year of the first conviction and each succeeding conviction; or
- (e) Imprisonment for a term not to exceed fifteen days; or
- (f) Both a fine and imprisonment.

Each day such violation occurs or continues shall constitute a separate offense.

**SECTION 20.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 21.**

This local law shall take effect January 5, 2002  
and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to number the local law in conformance with the filing requirements of the Secretary of State and to file the local law with the Secretary of State in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

Mrs. Deyo moved the adoption of the resolution. Seconded by Mr. Wetherell. Upon roll call, all Supervisors voted Aye except Supervisors Spickerman, Jenkins, Buckalew, Fabino, Lyon, Pascarella Colvin and Decker who voted Nay. Absent – Supervisor Herrmann. The Chairman declared the Resolution adopted.

Clerk of the Board of Supervisors,  
County of Wayne

I, hereby certify that I have compared the foregoing copy of a resolution with the original duly adopted by the above mentioned Board at a session held on the 15th day of May 2001 and that the same is a true copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the said Board, this 15th day of May 2001.

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Clerk